IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

OP.No. 17211 of 2002(Y)

PETITIONER:

ASOKKUMAR.K.,KADAMUTTATH HOUSE,
KODUVAZHANGa,ALANGAD VILLAGE,PARUR TALUK.

BY ADV. SMT.V.P.SEEMANDINI
SRI.T.R.RAJESH
SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SRI.T.K.MOHAMMED SHARAFUDHEERN

RESPONDENTS:

1. REVENUE DIVISIONAL OFFICER,FORT COCHIN

2. ADDL.TAHSILDAR,TALUK OFFICE,PARAVUR,
ERNAKULAM DISTRICT

3. VILLAGE OFFICER,ALANGAD VILLAGE,
ALANGAD P.O.

4. ALANGAD PANCHAYAT,REPRESENTED BY ITS
SECRETARY,NEERIKODE P.O.,ALANGAD 683 511

5. SUB INSPECTOR OF POLICE,BINANIPURAM
POLICE STATION,BINANIPURAM,EDAYAR,ERNAKULAM DIST.

*** ADDL.R6 IMPLEADED.**

6. VISWANATHA PILLAI, S/O.LATE NARAYANA PILLAI
KALLATTU HOUSE, KODUVAZHANGA KARA,
NEERIKODE POST, ERNAKULAM DISTRICT.

ADDL.R6 IMPLEADED VIDE ORDER DT.31.7.2002 IN CMP. NO.35611/02 IN OP.17211/02.

BY GOVERNMENT PLEADER SRI.BASANT BALAJI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 17211 OF 2002 Y

Dated this the 2nd day of January, 2007

J U D G M E N T

The petitioner is challenging Ext.P3 order and Ext.P4 notice issued by the 1st respondent Revenue Divisional Officer by which the petitioner was found to have violated the Kerala Land Utilisation Order and the Essential Commodities Act by unauthorisedly excavating sand from his property. A fine of Rs.25,000/- was imposed on him apart from directing the Binanipuram Sub Inspector to take proceedings under section 188 of the Indian Penal Code for violation of the orders of the Sub Divisional Magistrate. The petitioner's main contention is that Ext.P3 order has been passed without issuing any notice to him or affording him an opportunity of being heard. Therefore, according to the petitioner, Ext.P3 order and Ext.P4 auction notification for auctioning the sand excavated by the petitioner are illegal and unsustainable for violation of principles of natural justice. Although a counter affidavit has been filed by the 2nd respondent, the Government Pleader could not satisfy me that any notice has been issued to the petitioner before passing Ext.P3 order. That being so, Ext.P3 order has been passed in violation of the principles of natural justice. Ext.P3 order is liable to be

quashed on that ground alone. Accordingly, I quash Ext.P3 order. Consequently Ext.P4 order is also quashed. However, this shall not prejudice the respondents from taking appropriate action in accordance with law after complying with the principles of natural justice if the respondents still intend to proceed with this matter.

The original petition is disposed of as above.

(S. SIRI JAGAN, JUDGE)

aks

S. SIRI JAGAN , J.

OP No.17211/02 Y

J U D G M E N T

2nd January, 2007